IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 16TH AUGUST 2007 / 25TH SRAVANA 1929

Crl.MC.No. 2611 of 2007()

CC.352/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PATTAMBI

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PETITIONER: 2ND ACCUSED:

M.M.MUSTHAFA, AGED 32 YEARS,
S/O.MUHAMMED, MELETHALAKKAL, P.O.CHALISSERY,
CHALISSERY, PATTAMBI.

BY ADV. SRI.M.K.ABOOBACKER

RESPONDENTS: COMPLAINANT:

THE SUB INSPECTOR OF POLICE,
CHALISSERY POLICE STATION, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 16/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2611 of 2007

Dated this the 16th day of August, 2007

O R D E R

The petitioner faces indictment in a prosecution for offence punishable, inter alia, under Section 452 I.P.C. The petitioner had appeared before the learned Magistrate. The petitioner could not appear before the learned Magistrate on one date of posting. An application was filed to exempt him from personal appearance. That application was rejected and a non bailable warrant was issued against the petitioner, submits the learned counsel for the petitioner.

2. According to the petitioner, he is absolutely innocent. His failure/omission to appear before the learned Magistrate was not wilful. He is willing to appear before the learned Magistrate and co-operate with the court for the expeditious disposal of the case. But the petitioner apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-